



Voluntary Action Program

Ohio's Voluntary Action Program (VAP) allows companies to investigate and clean up environmental contamination and, if necessary, receive a legal release from the State of Ohio confirming no further cleanup is required.

Benefits of the VAP

Ohio recognized the need to remove the environmental and legal barriers that stalled the redevelopment and reuse of contaminated properties. The VAP maximizes resources and expertise in the private sector. Now, if someone wants to clean up a piece of property, they may follow specific standards developed by Ohio EPA and be assured that it meets environmental standards without direct oversight from Ohio EPA.

Certified Professionals

The VAP utilizes qualified, experienced professionals such as engineers and scientists certified by Ohio EPA. These certified professionals (CPs) ensure that properties are cleaned up to the standards set by the VAP program rules. The detailed program rules allow these qualified professionals and the volunteers they represent to carry out the work without ongoing Agency involvement.

Ohio EPA operates a certification program to ensure that only professionals with the appropriate qualifications and experience are licensed as CPs. To maintain high standards, CPs must meet annual continuing education requirements and undergo recertification each year. Information about CPs can be found here: <https://epa.ohio.gov/divisions-and-offices/environmental-response-revitalization/cleanup-and-investigation/certified-professional>.

No Further Action Letter

When a CP determines that a property meets the cleanup standards set forth in the program rules (OAC Chapter 3745-300) after conducting an investigation and necessary remediation, they prepare a No Further Action (NFA) letter. This letter outlines the environmental issues identified at the property, the investigative process, and the cleanup or remediation efforts undertaken.

The NFA letter includes a VAP Phase I property assessment, which details the CP's investigation into the property's historical and current uses. This assessment helps the CP determine whether there is a reason to suspect a release of hazardous substances or petroleum has occurred or may have occurred on the property.

If there is reason to believe contamination exists, a VAP Phase II property assessment is conducted. This assessment involves collecting soil, ground water, surface water, and sediment samples, as necessary. The Phase II assessment ensures that all potential contaminants identified in the Phase I investigation are evaluated against the appropriate VAP cleanup standards. If the Phase II assessment confirms the property meets these standards and protects human health and the environment, the CP will finalize the voluntary cleanup and prepare the NFA letter.

If additional remediation is required to meet the standards, further actions will be taken to ensure the property's safety. These actions may not always involve soil removal or ground water treatment. Still, they could include land use restrictions or implementing barriers, such as soil covers or asphalt/concrete caps, to prevent exposure to contamination.

Technical Assistance

Ohio EPA offers technical assistance to volunteers participating in the Voluntary Action Program (VAP), helping with any questions or guidance related to the program. Since the VAP is funded through user fees, volunteers are required to cover the cost of the Agency's assistance. Volunteers may utilize VAP rules and technical support for property cleanup and redevelopment, even if an NFA letter is not submitted. Applications for technical assistance are available here: <https://epa.ohio.gov/divisions-and-offices/environmental-response-revitalization/derr-programs/voluntary-action-program> > Programs Info/Services > TA

Memorandum of Agreement

Volunteers seeking assurance that U.S. EPA will not require additional cleanup must follow the additional steps outlined in the agreement negotiated between Ohio EPA and U.S. EPA. These steps include direct oversight of investigation and cleanup

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activities by Ohio EPA, as well as opportunities for public review of property documents produced by the volunteer. For more information on the Memorandum of Agreement process, please see

<https://epa.ohio.gov/static/Portals/30/vap/docs/MOA%20Track.pdf>

Covenant Not to Sue

To obtain a legal release from the State of Ohio, the certified professional submits the No Further Action (NFA) letter to Ohio EPA for review. Ohio EPA's technical staff evaluates the NFA letter to ensure that the property meets program standards and is protective of public health, safety, and the environment. Once cleanup requirements are satisfied, Ohio EPA's director issues a Covenant Not to Sue. This covenant protects the property owner, operator, and future owners from legal responsibility for further investigation or cleanup as long as the property is used and maintained as it was when the covenant was issued.

The covenant is recorded with the county recorder's office and is attached to the property deed, transferring ownership. Any use restrictions are filed along with the deed prior to the issuance of the covenant. When a covenant is issued or denied, a notice is published in the local newspaper to inform residents and other interested parties. Both issuances and denials can be appealed to the Environmental Review Appeals Commission.

Ohio EPA audits at least 25 percent of VAP properties annually to ensure proper cleanup and that certified professionals (CPs) and laboratories have met all standards. Ohio EPA may review all relevant documents during these audits and conduct on-site sampling to verify compliance with cleanup standards. Volunteers may lose their covenant if issues identified in an audit are not addressed. CPs and laboratories that fail to meet VAP requirements or engage in misconduct, such as falsifying or withholding information, may face civil or criminal penalties.

For a list of all NFA letters and their status, visit [Complete NFA Summary List](#).

Public Participation

All information submitted to Ohio EPA as part of the Voluntary Action Program (VAP) is publicly accessible. This includes materials provided by companies seeking technical assistance before submitting an NFA letter, all documentation included in the NFA letter, and any agency comments. At any point during the review of an NFA letter, the public can request and receive any cleanup-related documents from Ohio EPA.

Additionally, each NFA letter must include a list of all data, information, and documentation used to support the voluntary cleanup, even if some of this information is not part of the NFA submission. This information is available to the public upon request.

While the law protects the volunteer from having this documentation used in civil or administrative proceedings, it does not permit the volunteer to claim confidentiality over any of the information or limit the public's right to access these documents.

Contact

For more information about the program, go to <https://epa.ohio.gov/divisions-and-offices/environmental-response-revitalization/derr-programs/voluntary-action-program> or contact VAP staff at (614) 644-2924.